CMP(M) No. 800 of 2007
RSA No.496 of 2007

7.11.2007 Present: Mr. Neel Kamal Sood, counsel for the appellants.

There is delay of 198 days in filing the appeal. The only reason given for the delay is that the important document handed over to appellant's wife were misplaced. The record shows that the appellants have been pursuing their remedies before the revenue authorities even after passing of impugned judgement and decree dated 1.1.2007. Therefore on the face of it, explanation given is incorrect and unbelievable. I see no reason to condone the delay. In any event, the present appeal has been filed on the following substantial questions of law:-

1. Whether respondent had any right to claim permanent prohibitory injunction against the appellants, more particularly when both of them were having title of possession with them?

2. Whether the appellants were in constructive, physical, actual and symbolic possession of the land in dispute in view of evidence recorded by the Courts below?

3. Whether the trial Court incredibly failed to record the finding independently and committed grave error by clubbing the issues?

4. Whether the finding recorded by the Settlement Officer, Division Shimla has binding force in the eyes of law qua the possession of the parties to the land in dispute?

Contd.

Both the Courts below have concurrently held that the plaintiff is in possession of the suit land. The suit filed by the plaintiff was for permanent injunction, restraining the defendants from interfering in any manner and dispossessing the plaintiff from the suit property. It is not that plaintiff has also been held to be owner of the suit land. As such, no substantial questions of law arises for consideration by this Court.

The application and the appeal are accordingly dismissed. CMP No. 858/07 is also dismissed.

Learned counsel for the appellants has submitted that appellants are pursuing their remedies before the Revenue Authorities. I express no opinion on the same. It is open for the appellants to pursue the matter before the authorities in accordance with law.

November 7, 2007 **(Sanjay Karol)**
(TM**)** **Judge.**